

10 CSR 40-10.030 Bonding

PURPOSE: This rule sets forth bonding requirements pursuant to sections 444.772 and 444.778, RSMo.

(1) Bond Requirements. All permit applications must include a bond for the appropriate amount payable to the state of Missouri, which remains in effect until mined acreages have been reclaimed, approved and released by the commission, or until replaced with a bond of equal amount.

(A) Operations mining more than five thousand (5000) tons per year of gravel or any quantity of either limestone, barite, traprock, granite, tar sand, clay, sandstone, oil shale, sand, shale and all others defined in section 444.765.4., RSMo must file an eight thousand-dollar (\$8000) bond with the commission. The eight thousand-dollar (\$8000) bond covers up to eight (8) acres of permitted area. Each additional acre permitted over eight (8) acres shall be bonded at five hundred dollars (\$500) per acre. Multiple sites totaling eight (8) acres or less may be covered by a single eight thousand-dollar (\$8000) bond if they are part of a single permit.

(B) Operators who mine less than five thousand (5000) tons of gravel yearly from all sites covered by a single permit shall file a bond with the commission at the rate of five hundred dollars (\$500) per acre for each permitted acre.

(C) In-Stream Sand and Gravel Operations.

1. Initially, an in-stream sand and gravel operator will not be required to submit bond due to the lack of reclamation responsibility.

2. If it is determined, upon inspection and subsequent review and analysis by the staff director, that a reclamation responsibility exists, the permittee will be required to obtain an amended permit on the area of reclamation responsibility, and post the appropriate bond, as described in subsection (1)(A) and (B) of this rule. A reclamation responsibility is defined as a mining activity causing accelerated bank erosion, headcutting upstream or in adjacent streams, excessive sedimentation downstream, impeded stream flow or other circumstances requiring corrective action, but only where there is clear evidence that the mining or reclamation activity within the permit area is the primary cause of this reclamation responsibility.

3. Bond releases shall be handled in accordance with sections (4)–(7) of this rule. The bond would be released once the problem that caused the reclamation responsibility is reclaimed or corrected. Only those problems within a permit area or those operations within a permit area that are determined to be the primary cause of problems within and outside

the permit area need to be reclaimed or corrected. The permittee shall not be required to conduct reclamation operations outside the permit area. Still, work that could be accomplished within the permit area to alleviate those problems that developed outside the permit area would be required before bond release.

(2) Types of Bonds. The director may accept surety bonds and collateral bonds secured by certificates of deposit (CDs).

(A) Surety bonds shall be signed by the operator as principal and the surety bonds must be issued by a good and sufficient corporate surety licensed to do business in Missouri. Persons obligating the surety must be certified by power of attorney.

1. Upon the incapacity of a surety by reason of bankruptcy, insolvency or suspension or revocation of its license, the permittee shall be deemed without a bond coverage in violation of this rule and section 444.778, RSMo.

2. The commission may suspend the permit if the operator fails to make substitution of surety within sixty (60) days after receiving notice from the commission, until the substitution is made.

3. The commission also may issue a notice of violation if no substitution is made in sixty (60) days and the permittee continues to operate. The notice of violation shall specify a reasonable period to replace bond coverage, not to exceed ninety (90) days. During this period, the director and his/her staff may conduct inspections to ensure continued compliance with other permit requirements, the regulations and the law. If a notice of violation is not abated in accordance with the schedule, the director may pursue forfeiture of the operator's bond.

(B) Collateral bonds secured by CDs shall be subject to the following conditions:

1. The bonds shall be submitted on a form provided by the commission as provided by section 444.778.1., RSMo. A CD must be assigned to the state of Missouri;

2. Interest on a CD shall be paid to the permittee;

3. No single CD shall exceed the sum of one hundred thousand dollars (\$100,000), nor shall any permittee submit CD aggregating more than one hundred thousand dollars (\$100,000) from a single bank or financial institution. The issuing bank or financial institution must be insured by the Federal Deposit Insurance Corporation;

4. The CD shall be kept in the custody of Missouri until the bond is released by the commission; and

5. The permittee shall give prompt notice to the commission of any insolvency or bankruptcy of the issuer of the certificate.

(C) Personal bonds secured by letters of credit shall be subject to the following conditions:

1. The bond and the letters of credit shall be submitted on forms provided by the commission;

2. Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the regulatory authority if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date;

3. The beneficiary of the letter of credit shall be the state of Missouri;

4. The letter of credit shall be issued by a bank or trust company located in the United States. If the issuing bank or trust company is located in another state, a bank or trust company located in Missouri must confirm the letter of credit. Confirmations shall be irrevocable and on a form provided by the director;

5. The letter of credit shall be governed by Missouri law. The Uniform Customs and Practice for Documentary Credits, fixed by the International Chamber of Commerce, shall not apply;

6. The letter of credit shall provide that the director may draw upon the credit by making a demand for payment, accompanied by his/her statement that the commission has declared the permittee's bond forfeited;

7. The issuer of a letter of credit or confirmation shall warrant that the issuance will not constitute a violation of any statute or regulation which limits the amount of loans or other credits which can be extended to any single borrower or customer or which limits the aggregate amount of liabilities which the issuer may incur at any one (1) time from issuance of letters of credit and acceptances;

8. The bank issuing the letter(s) of credit for bonding purposes shall give prompt notice to the commission and the permittee of any insolvency or bankruptcy of the bank; and

9. The bond shall be forfeitable upon revocation of the underlying permit.

(D) The replacement of surety and performance bonds shall be subject to the following:

1. Permit holders may replace existing bonds with replacement bonds at any time; and

2. Existing performance bonds will not be released until the permittee has submitted and the director has approved acceptable replacement performance bonds. A replacement of performance bonds pursuant to this section shall not constitute a release of liability under section 444.775, RSMo.



(3) If, after a surety has provided ninety (90)-day notice of cancellation, the bond shall be considered canceled on any unaffected acreage, except that the total bonding may not be reduced to less than the eight thousand-dollar (\$8000) minimum.

(4) In addition to these bonding requirements, for each acre or portion of an acre permitted on or after August 28, 1990, where topsoil has been removed, either by discarding or selling, an additional bond at four thousand five hundred dollars (\$4500) per acre shall be filed with the Land Reclamation Commission, unless the area does not require replacement of topsoil for revegetation. If more than twelve inches (12") of topsoil exists on the site or if the commission approves a soil substitution plan, the excess may be sold without posting the additional bond.

(5) An operator may file with the commission a bond release request for permitted bonded acres which are not disturbed at any time. If approved by the commission, the bond will be reduced at the rate at which it was posted, following a field inspection of the area to verify that no disturbance has occurred.

(6) When an operator succeeds another at an operation, the commission may release the first operator after the successor operator obtains a permit and posts the bonds required by law and assumes, in writing, all outstanding reclamation liability and requirements at the site(s) transferred to the successor operator. All areas disturbed by the first operator that have not been transferred to the successor operator shall remain the liability of the first operator.

(7) To file a request for bond release on an operation, an operator must apply, in writing, to the commission for release of the bond or portion of the bond. This application shall be on a form provided by the commission and shall be accompanied by a map showing the area requested for release.

(8) If, after being inspected, an area is found by the commission to qualify for a bond release, the bond will be reduced proportionately, but not below the eight thousand-dollar (\$8000) minimum required. An area shall qualify for bond release when the operator has fulfilled all reclamation obligations specified in the approved permit, Land Reclamation Act, the rules in this chapter and all other applicable laws.

(9) Whenever an increase in acreage permitted requires an increase in bond, additional bond and bond form(s) reflecting the increase shall be submitted as required by this rule.

(10) The bond shall be forfeitable upon permit revocation or upon the operator's failure to renew the permit on affected acres not reclaimed or for any violation of these rules. In the event the bond is forfeited, the commission may pursue all legal remedies to obtain the bond and to complete reclamation.

*Auth: sections 444.767 and 444.778, RSMo (Cum. Supp. 1993) and 444.775 and 444.784, RSMo (Cum. Supp. 1990).**
Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 1994, effective Nov. 30, 1994.

**Original authority: 444.767 and 444.778, RSMo (1971), amended 1990, 1993; 444.775, RSMo (1990) and 444.784, RSMo (1971), amended 1990.*



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION

**SURETY BOND
SURFACE MINING OF MINERALS**

P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102

SURETY COMPANY BOND NUMBER _____

KNOW ALL MEN BY THESE PRESENTS, That the undersigned _____
of _____ as principal,
and _____,
of _____ as surety are held
and firmly bound unto the State of Missouri, Land Reclamation Commission in the penal sum of _____
Dollars (\$ _____) for the payment of which sum, well and
truly to be made, we hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors,
and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas, the above named principal
did on the _____ day of _____ 19 _____, file with the Land
Reclamation Commission an application to secure a permit to engage in surface mining in the State of Missouri,
under the terms and provisions of Sections 444.760 to 444.789, RSMo that in said application the principal estimated
that _____ acres of land are affected or will be affected by surface mining during the
period corresponding with Permit No. _____.

Now if the said principal faithfully performs all requirements of the Land Reclamation Act and complies with
all rules of the Land Reclamation Commission at 10 CSR Division 40 and satisfactorily reclaims all lands within
the State of Missouri affected by surface mining by said principal under said permit in accordance with Sections
444.760 to 444.789, RSMo then this obligation shall be null and void; otherwise it shall remain in full force and
effect.

The Surety shall not cancel this bond, for any reason whatsoever, including, but not limited to, nonpayment
of premium, bankruptcy or insolvency of the Principal, or issuance of notices of violations or cessation orders and
assessment of penalties with respect to the operations covered by this bond, unless the Surety shall first give actual
notice in writing to both the Commission and the Principal of intent to cancel the bond, stating the reasons therefor,
ninety (90) days in advance of such cancellation. The obligations of the bond may not be cancelled as to acreage
affected prior to the expiration of the ninety (90) day notice period.

Application for release of the obligations of this bond may be made to the Commission in accordance with
the provisions of Sections 444.760 and 444.789, RSMo.

MO 780-0016 (8-90)



PRINCIPAL'S SIGNATURE		SURETY'S SIGNATURE	
SIGNATURE	DATE	SIGNATURE	DATE
NAME		NAME	
OFFICIAL POSITION		OFFICIAL POSITION	
STATE OF MISSOURI COUNTY OF		STATE OF MISSOURI COUNTY OF	
APPEARED BEFORE ME THIS _____ DAY OF _____ _____, 19____, _____ AND _____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.		APPEARED BEFORE ME THIS _____ DAY OF _____ _____, 19____, _____ AND _____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.	
NOTARY PUBLIC	MY COMMISSION EXPIRES	NOTARY PUBLIC	MY COMMISSION EXPIRES

The amount of this bond shall be calculated as follows: eight thousand dollars (\$8,000.00) for each permit up to eight acres and five hundred dollars (\$500.00) for each acre or portion thereafter of land to be affected by mining operations. Bonding requirements are per 444.778, RSMo.

Where one signs by virtue of Power of Attorney for a surety company, such Power of Attorney must be filed with the bond.

Any notices to or correspondence with the surety hereunder shall be to the following name and address:

NAME

ADDRESS CITY STATE ZIP CODE

BOND ACCEPTED BY THE DIRECTOR: SIGNATURE DATE

MO 780-0016 (8-90)



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION

PERSONAL BOND SECURED BY A CERTIFICATE OF DEPOSIT
(Surface Mining of Minerals)

P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102

PERMIT NUMBER ▶		
<p>KNOW ALL MEN BY THESE PRESENTS, That the undersigned _____ of (NAME OF PERMITTEE)</p> <p>_____, as Obligor (permittee), (ADDRESS OF PERMITTEE)</p> <p>is held and firmly bound unto the State of Missouri payable to the Treasurer of the State of Missouri, to the credit of the Mined Land Reclamation Fund in the penal sum of _____ Dollars (\$ _____) for the payment of such sum, well and truly to be made, we jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns. This obligation is secured by Certificate of Deposit as described herein:</p>		
CERTIFICATE NUMBER	ISSUING BANK	AMOUNT
CERTIFICATE NUMBER	ISSUING BANK	AMOUNT
CERTIFICATE NUMBER	ISSUING BANK	AMOUNT
<p>Each Certificate of Deposit described above is payable to the Treasurer of the State of Missouri or _____ _____. (Obligor), and shall be kept in the custody of the State of Missouri until successful completion of the conditions of this obligation, and shall be forfeitable by the State of Missouri, acting through the Land Reclamation Commission, if the conditions of this obligation are not met. The issuing bank(s) named above hereby waives all rights of setoff or liens against the Certificate(s) of Deposit denominated above.</p> <p>THE CONDITION OF THIS OBLIGATION IS SUCH, That whereas the above named Obligor did on the _____ day of _____, 19____, file with the Land Reclamation Commission an application to secure a permit to engage in surface mining and reclamation operations in the State of Missouri, under the terms and provisions of Sections 444.760 to 444.789, RSMo; that said application has been approved for operations under Permit Number _____, consisting of _____ acres; that the Obligor will undertake operations and complete reclamation on the affected land in accordance with the statutes, regulations of the Commission, conditions of the permit, and the approved reclamation plan; and that this bond is subject to forfeiture pursuant to the statutes and regulations for failure to so comply. The penalty of this bond shall be the full effective amount of this bond.</p>		

MO 780-0936 (8-90)



Now if the Obligor faithfully performs all the requirements of Sections 444.760 to 444.789, RSMo, and complies with the regulations of the Land Reclamation Commission at 10 CSR Division 40, with the conditions of the permit issued to Obligor as identified herein, or any amendments to said permit, and successfully completes reclamation on the area covered by said permit according to said statutes, regulations, permit conditions and reclamation plan, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

Application for release of the obligations of this bond may be made to the Commission in accordance with the provisions of Section 444.760 and 444.789, RSMo.

OBLIGOR (SIGNATURE)		OFFICIAL TITLE	
NOTARY PUBLIC EMBOSSEER SEAL	STATE OF MISSOURI		COUNTY (OR CITY OF ST. LOUIS)
	SUBSCRIBED AND SWORN BEFORE ME, THIS		
	DAY OF 19		USE RUBBER STAMP IN CLEAR AREA BELOW.
	NOTARY PUBLIC SIGNATURE	MY COMMISSION EXPIRES	
NOTARY PUBLIC NAME (TYPED OR PRINTED)			

Interest on the Certificates of Deposit may be payable to the Obligor.

No single Certificate of Deposit shall exceed the sum of \$100,000.00 nor shall any permittee submit Certificates aggregating more than \$100,000.00 from a single bank. The issuing bank(s) must be protected by the Federal Deposit Insurance Corporation (F.D.I.C.).

The amount of this bond shall be calculated as follows: eight thousand dollars (\$8,000.00) for each permit up to eight acres and five hundred dollars (\$500.00) for each acre or portion thereafter of land to be affected by mining operations. Bonding requirements are per Section 444.778, RSMo.

BOND ACCEPTED BY THE DIRECTOR (SIGNATURE)	DATE
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MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION
**PERSONAL BOND SECURED BY A LETTER OF CREDIT
(THE LAND RECLAMATION ACT)**

P.O. BOX 176
JEFFERSON CITY, MO 65102

BOND NUMBER	PERMIT NUMBER
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KNOW ALL MEN BY THESE PRESENTS, That the undersigned _____ of
(NAME OF PERMITTEE)_____, as Obligor
(ADDRESS OF PERMITTEE)

is held and firmly bound unto the State of Missouri payable to the Treasurer of the State of Missouri, to the credit of the
Mined Land Reclamation Fund in the penal sum of _____ Dollars (\$ _____)
for the payment of such sum, well and truly to be made, we jointly and severally bind ourselves, our heirs, administrators,
executors, successors, and assigns. This obligation is secured by Irrevocable Letter of Credit No. _____
dated _____, issued by the _____,
(NAME OF ISSUING BANK)
of _____,
(ADDRESS OF ISSUING BANK)
in the amount of \$ _____, (and an Irrevocable Confirmation of Letter of Credit, Document No. _____,
dated _____, issued by the _____,
(NAME OF CONFIRMING BANK)
of _____,
(ADDRESS OF CONFIRMING BANK)
in the amount of \$ _____).

THE CONDITION OF THIS OBLIGATION is such, that:

Whereas, the above named Obligor did on the _____ day of _____, 19 _____, file with the
Director of the Land Reclamation Commission an application to secure Permit No. _____ to conduct surface
mining and reclamation operations in accordance with the statutes at 444.760 to 444.790 and the regulations at 10 CSR
40 Chapter 10;

Whereas, obligations guaranteed by this bond shall be in effect for the above referenced permit;

Whereas, the Obligor has chosen to post this bond as a guarantee that the reclamation of land disturbed during these
surface mining operations will be completed as required by the statutes and regulations and as specified in the permit as
issued and subsequently amended; and

Whereas, the Obligor agrees to guarantee this obligation and to indemnify, defend, and hold harmless the State of Missouri,
Land Reclamation Commission from any and all losses and expenses which the Land Reclamation Commission may sustain
as a result of the Obligor's failure to comply with the conditions of this obligation.

Now, therefore, the conditions of the obligations are such that, this bond shall remain in full force and effect until the
Obligor faithfully completes reclamation as set forth in the statutes, regulations and the above referenced permit.